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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

<b>CORDELIA ZUBER</b>	:	<b>CIVIL ACTION</b>
<b>and</b>	:	
<b>ANTHONY ZUBER</b>	:	<b>NO.</b>
<b>and</b>	:	
<b>JASMIN ZUBER</b>	:	
	:	
<b>VS.</b>	:	
	:	
<b>CITY OF PHILADELPHIA</b>	:	
<b>and</b>	:	
<b>P.O. MARTIN MCDONALD</b>	:	<b>JURY TRIAL DEMANDED</b>
<b>and</b>	:	
<b>P.O. DAVID PALMA</b>	:	

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**COMPLAINT**

1. The plaintiff, Cordelia Zuber, is an adult individuals residing at 3801 Wallace Street, Philadelphia, PA 19104.
2. The plaintiff, Anthony Zuber, is an adult individuals residing at 3801 Wallace Street, Philadelphia, PA 19104.
3. The plaintiff, Jasmin Zuber, is an adult individuals residing at 7226 Alderbrook Road, Apt. C, Upper Darby, PA 19082
4. Defendant, City of Philadelphia is a duly constituted municipal authority with offices located at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102.
5. Defendant, Police Officer Martin McDonald, Badge #5563, is an adult individual and an employee of the Police Department of the City of Philadelphia, which has offices at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102.
6. Defendant, Police Officer David Palma, Badge #9998, is an adult individual and an

employee of the Police Department of the City of Philadelphia, which has offices at 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102.

7. Jurisdiction is based on 28 U.S.C. §1331; the action arises under the Constitution, laws, or treaties of the United States.

8. Venue is properly laid in this District pursuant to 28 U.S.C. §1391(a).

9. At times material hereto, defendant City of Philadelphia, acted by and through its agents, servants, workmen and/or employees, acting within the course and scope of their employment of same within their control and/or right to control.

10. On or about May 23, 2007, the plaintiffs were outside of their home at 3801 Wallace Street in Philadelphia, Pennsylvania, when without warning, justification or necessity, Police Officers Martin McDonald and David Palma intentionally, illegally, improperly, maliciously and with reckless disregard for plaintiffs' safety and welfare, beat, assaulted and inflicted violence and physical harm upon plaintiffs.

11. As a result of the aforementioned conduct, the plaintiffs sustained serious and permanent injuries and damages set forth more fully herein at length.

**COUNT ONE – MONELL CLAIM**

**CORDELIA ZUBER, ANTHONY ZUBER AND JASMIN ZUBER**  
**V. CITY OF PHILADELPHIA**

12. Plaintiffs hereby incorporate by reference paragraphs one (1) through eleven (11) above as though fully set forth at length herein.

13. Police Officers McDonald and Palma's actions constitute a substantive due process violation, excessive use of force, false imprisonment and false arrest in violation of the Fourth and

Fourteenth Amendments of the United States Constitution.

14. Plaintiffs' injuries were the direct result of Officers McDonald and Palma's direct violation of plaintiffs' constitutional rights.

15. Officers McDonald and Palma's treatment of plaintiffs was without provocation and unreasonable, and was as a direct result of City of Philadelphia custom, policy, and practice.

16. As the direct and proximate result of City of Philadelphia custom, practice and policy and the aforesaid unlawful and malicious conduct by Officers McDonald and Palma, committed under color of state law under authority as a Philadelphia Police Department police officer, plaintiffs sustained grievous bodily harm and were deprived of their right to be secure in person, against unreasonable seizure and the use of excessive force, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §1983.

17. As the direct and proximate result of City of Philadelphia custom, practice and policy and the aforesaid unlawful and malicious physical abuse of plaintiffs by Officers McDonald and Palma, plaintiffs suffered severe and permanent injuries and damages including, but not limited to, lumbar and cervical sprain and strain, bruising, and contusions. Additionally, plaintiffs have suffered special damages in the form of medical expenses, lost wages, diminished future earning capacity, and will suffer additional special damages in the future in amounts which have not yet been determined.

WHEREFORE, plaintiffs, Cordelia Zuber, Anthony Zuber and Jasmin Zuber demand punitive and compensatory damages against the Defendant, individually, jointly and severally, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) plus costs, interest, and delay damages on each count, together with such exemplary damages and legal fees as the court may allow.

**COUNT TWO - EXCESSIVE FORCE**

**CORDELIA ZUBER, ANTHONY ZUBER AND JASMIN ZUBER V. OFFICERS  
MARTIN MCDONALD AND DAVID PALMA**

18. Plaintiffs hereby incorporate by reference paragraphs one (1) through seventeen (17) above as though fully set forth at length herein.

19. At no time were plaintiffs a danger to Officers McDonald and Palma, nor did they offer any violence or threaten them.

20. Plaintiffs' injuries were the direct result of the excessive force used by Officers Martin McDonald and David Palmer, in direct violation of plaintiffs' Fourteenth Amendment right to substantive due process.

21. Defendants' treatment of plaintiffs was without provocation and was unreasonable.

22. As the direct and proximate result of the aforesaid unlawful and malicious physical abuse of plaintiffs by defendants Officers Martin McDonald and David Palmer, committed under color of state law under authority as Philadelphia Police Department police officers, plaintiffs sustained grievous bodily harm and were deprived of the right to be secure in their persons, and against unreasonable seizure of their persons and the use of excessive force, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §1983.

23. As the direct and proximate result of the aforesaid unlawful and malicious physical abuse of plaintiffs by Officers McDonald and Palma, plaintiffs suffered severe and permanent injuries and damages including, but not limited to, lumbar and cervical sprain and strain, bruising, and contusions. Additionally, plaintiffs have suffered special damages in the form of medical expenses, lost wages, diminished future earning capacity, and will suffer additional special damages in the future in amounts which have not yet been determined.

WHEREFORE, plaintiffs, Cordelia Zuber, Anthony Zuber and Jasmin Zuber demand punitive and compensatory damages against the Defendants, individually, jointly and severally, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) plus costs, interest, and delay damages on each count, together with such exemplary damages and legal fees as the court shall allow.

**COUNT THREE - FALSE ARREST**

**CORDELIA ZUBER, ANTHONY ZUBER AND JASMIN ZUBER V. OFFICERS  
MARTIN MCDONALD AND DAVID PALMA**

24. Plaintiffs hereby incorporate by reference paragraphs one (1) through twenty-three (23) above as though set forth fully at length herein.

25. After beating plaintiffs, defendants detained and arrested them.

26. The actions of the defendants in stopping, handcuffing and arresting plaintiffs were willful and malicious and without reason or probable cause or justification.

27. As the direct and proximate result of the aforesaid unlawful and malicious conduct by defendants, committed under color of law under authority as a Philadelphia Police Department police officer, plaintiffs sustained grievous bodily harm and was deprived of their right to be secure in their person, and against unreasonable seizure and false arrest, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §1983.

28. As the direct and proximate result of the aforesaid unlawful and malicious physical abuse of plaintiffs by Officers McDonald and Palma, plaintiffs suffered severe and permanent injuries and damages including, but not limited to, lumbar and cervical sprain and strain, bruising, and contusions. Additionally, plaintiffs have suffered special damages in the form of medical expenses, lost wages, diminished future earning capacity, and will suffer additional special

damages in the future in amounts which have not yet been determined.

WHEREFORE, plaintiffs, Cordelia Zuber, Anthony Zuber and Jasmin Zuber demand punitive and compensatory damages against the Defendants, individually, jointly and severally, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) plus costs, interest, and delay damages on each count, together with such exemplary damages and legal fees as the court shall allow.

**COUNT FOUR - FALSE IMPRISONMENT**

**CORDELIA ZUBER, ANTHONY ZUBER AND JASMIN ZUBER V. OFFICERS  
MARTIN MCDONALD AND DAVID PALMA**

29. Plaintiffs hereby incorporate by reference paragraphs one (1) through twenty-eight (28) above as though fully set forth at length herein.

30. After beating plaintiffs, defendants detained and imprisoned them.

31. At the same time and place, defendants, and each of them, falsely, publicly and maliciously accused the plaintiffs of having committed crimes relating to the above described incident.

32. At such time, the defendants forcibly and violently seized, assaulted, held and detained plaintiffs against their will and consent, and placed them under arrest and falsely and maliciously detained and imprisoned the plaintiffs.

33. Defendants refused to release the plaintiffs, but continued their assault, misconduct, seizure, holding, and detention of plaintiffs and threatened them with prosecution for alleged crimes.

34. Defendants acted as aforesaid without any reasonable or probable cause and contrary to the laws of the Commonwealth of Pennsylvania.

35. Plaintiffs were subjected to great humiliation, pain, and suffering by reason of the

assault and false and malicious arrest, detention, misconduct, seizure, holding and imprisonment of the plaintiffs as aforesaid.

36. By reason of the acts of the defendants, plaintiffs suffered severe damage to their credit and reputation and were hindered and prevented from performing necessary transactions and business and were caused to suffer great pain and mental anguish.

37. As the direct and proximate result of the aforesaid unlawful and malicious physical abuse of plaintiffs by defendants, and each of them, committed under color of law under authority as Philadelphia Police Department officers, plaintiffs sustained grievous bodily harm and were deprived of the right to be secure in their person, against unreasonable seizure and false arrest, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. §1983.

38. As the direct and proximate result of the aforesaid unlawful and malicious physical abuse of plaintiffs by Officers McDonald and Palma, plaintiffs suffered severe and permanent injuries and damages including, but not limited to, lumbar and cervical sprain and strain, bruising, and contusions. Additionally, plaintiffs have suffered special damages in the form of medical expenses, lost wages, diminished future earning capacity, and will suffer additional special damages in the future in amounts which have not yet been determined.

WHEREFORE, plaintiffs, Cordelia Zuber, Anthony Zuber and Jasmin Zuber demand punitive and compensatory damages against the Defendants, individually, jointly and severally, in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) plus costs, interest, and delay damages on each count, together with such exemplary damages and legal fees as the court shall allow.

**JURY TRIAL DEMAND**

Plaintiffs demand a trial by jury for all claims.

Respectfully Submitted,

**//Christopher J. Culleton**  
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Dated: May 12, 2009